

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Central Illinois Generation, Inc.

)

Docket No. ER02-1688-000

**COMMENTS OF THE
ILLINOIS COMMERCE COMMISSION**

Pursuant to Rule 211 of the Commission's Rules of Practice and Procedure, 18 C.F.R. §385.211, the Illinois Commerce Commission ("ICC") hereby submits its comments in response to a supplemental filing submitted by Central Illinois Generation, Inc. ("CIGI") on June 14, 2002 in the above-captioned proceeding ("June 14 Supplemental Filing").

I. BACKGROUND

On May 1, 2002, CIGI tendered for filing with the Federal Energy Regulatory Commission ("Commission") an Application for Market-Based Rate Authority, Waivers and Acceptance of Power Supply and Interconnection Agreements ("May 1 Filing").

On May 29, 2002, the ICC submitted comments on that filing wherein the ICC recommended that the Commission: (1) not approve CIGI's application for market-based rates until a proper Supply Margin Assessment ("SMA") test is filed by CIGI and it receives Commission approval; (2) direct CIGI to use Simultaneous Import Capability ("SIC") to represent the transmission import capability into the CILCO control area in its SMA test; and (3) not approve CIGI's request for market-based rates until it can be ensured that the business

structure proposed by CILCO and CIGI will not result in transmission customers losing genuine cost-based options for procuring ancillary services in the CILCO control area.

In its June 14 Supplemental Filing, CIGI submitted an SMA pursuant to a request by Commission Staff for: (1) additional information to evaluate CIGI's request for market-based rate authority; and (2) cost support for the Power Supply Agreement ("PSA") between CIGI and its affiliate Central Illinois Light Company ("CILCO"). The SMA provided by CIGI concludes that CIGI passes the SMA within the CILCO control area.¹ Accordingly, CIGI reiterates its request that the Commission approve CIGI's request for market-based rate authority within the CILCO control area.² Further, CIGI requests that, in the event that the Commission concludes that CIGI does not pass the SMA, the Commission accept the PSA as a cost-based alternative to market-based rates for sales in the CILCO control area and grant CIGI market-based rate authority in adjacent control areas to which CIGI is directly interconnected.³

The Commission officially noticed CIGI's June 14 Supplemental Filing on June 20, 2002, wherein the deadline for comments was set at July 5, 2002.

On June 28, 2002, CIGI filed an Answer to the ICC's May 29th comments, stating that "it does not intend to perform any studies to precisely determine SIC" because it has requested that the power supply agreement be accepted as a cost-based rate if the Commission has concerns about market power.⁴

¹ CIGI Exhibit A.

² Transmittal Letter, at 2

³ *Id.*

⁴ CIGI Answer at 3.

II. ICC RECOMMENDATION

The ICC stands by the positions and recommendations in its comments submitted on May 29, 2002. Instead of restating those earlier comments here, the ICC will focus on the SMA provided by CIGI in its June 14 Supplemental Filing.

As discussed below, the ICC has concerns regarding several figures contained in the SMA provided by CIGI. In particular, CIGI's conclusion about its own ability to exercise market power is primarily driven by CIGI's assertions regarding transmission import capability into the CILCO control area. CIGI has provided no support for its contention that transmission import capability into the CILCO control area is 1,550 MW. Indeed, the ICC's review of information sources, as reported in the ICC's May 29 Comments, finds that transmission import capability is considerably less during peak periods than CIGI asserts.

Accordingly, the ICC requests that the Commission not approve CIGI's request for market-based rate authority for CIGI power sales into or within the CILCO control area unless and until CIGI can provide satisfactory support for the data presented in Exhibit A of the June 14 Supplemental Filing, especially, the transmission import capability figure.

III. DISCUSSION

In its May 29 comments, the ICC identified the extremely limited amount of transmission import capability into the CILCO control area market as a critical factor providing CIGI with the ability to exercise market power within the CILCO control area market.⁵ The ICC argued that the proper measure of transmission import capability in an SMA analysis is the simultaneous import capability ("SIC"). However, even using the more conservative method that simply sums the posted total transfer capacities ("TTC")

⁵ ICC Comments, at 9.

of transmission lines, the ICC found transmission import capability into the CILCO control area to be extremely limited. The ICC cited several data sources that indicated that TTC for first-tier interconnections with the CILCO control area resulted in a total import capability of only 2.73 MW.⁶ The ICC's preliminary analysis indicated a very high level of supply market dominance by CIGI and CILCO within the CILCO control area market. The ICC concluded that, at a minimum, these circumstances in the CILCO control area merited a more elaborate market power analysis than that put forward by CIGI in its May 1 filing.⁷

In the SMA provided by CIGI in its June 14 Supplemental Filing, CIGI presents that the sum of the TTCs into the CILCO control area is 1,550 MW.⁸ However, CIGI provides no citation for the source of this figure or any other support for it. Given that CIGI's conclusion about its own ability to exercise market power within the CILCO control area is primarily driven by the magnitude of this transmission import capability figure, the Commission should not approve CIGI's request for market-based authority without evidence supporting the 1,550 MW figure.

Furthermore, if the 1,550 MW figure is the result of CIGI's aggregating the "name plate" capacity of the transmission lines interconnected with the CILCO control area, the ability of non-CIGI generators to import power into the CILCO control area will be greatly overstated. In fact, the North American Electric Reliability Council ("NERC") cautioned against determining TTC through the aggregation of individual transmission lines.

⁶ *Id.*

⁷ *Id.*, at 10.

⁸ CIGI Exhibit A.

The ability of a single transmission line to transfer electric power, when operated as part of the interconnected network, is a function of the physical relationship of that line to the other elements of the transmission network. Individual transmission line capacities or ratings cannot be added to determine the transfer capability of a transmission path or interface (transmission circuits between two or more areas within an electric system or between two or more systems). Such aggregated capacity values may be vastly different from the transmission transfer capability of the network. Often, the aggregated capacity of the individual circuits of a specific transmission interface between two areas of the network is greater than the actual transfer capability of that interface. In summary, the aggregated transmission line capacities of a path or interface do not represent the transfer capabilities between two areas.⁹ (emphasis added)

Unsupported and unverified import capability figures should not be included in an SMA analysis. Furthermore, NERC has stated that aggregating transmission line capacities does not result in an accurate TTC between two areas. Accordingly, the Commission should not approve CIGI's market-based rate request under these circumstances.

Although the ICC has focused herein on the transmission import capability figure used by CIGI in Exhibit A of the June 14 Supplemental Filing, several of the other CIGI data points raise suspicions. In particular, Exhibit A uses CILCO's "forecasted peak load" of 1,266 MW to represent peak load within the CILCO control area market. However, as the ICC showed in its May 29 Comments, CILCO's actual peak load as reported in its 2001 FERC Form 1 was 1,287 MW.¹⁰ Unsupported and unverified peak load forecast numbers should not be used in the SMA analysis.

Even with the additional information provided in the June 14 Supplemental Filing, CIGI still has not provided the Commission with a sufficient basis to approve its request for market based rates for power sales within or into the CILCO control area market. Accordingly, the Commission should not approve that request unless and until

⁹ *Available Transfer Capability Definitions and Determination*, North American Electric Reliability Council (1996), at 7.

¹⁰ ICC's May 29 Comments, at 9.

CIGI can demonstrate, through application of a proper SMA test (using simultaneous import capability) that market based rates are appropriate.

IV. Conclusion

As argued above, the Commission should not approve CIGI's request for market-based rates within and into the CILCO control area market on the basis of the information provided by CIGI in Exhibit A of the June 14 Supplemental Filing.

Respectfully submitted,

/s/ Christine F. Ericson

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ILLINOIS COMMERCE COMMISSION

July 2, 2002

CERTIFICATE OF SERVICE

I hereby certify that I caused copies of the foregoing document of the Illinois Commerce Commission to be served this day upon each person designated on the official service list compiled by the Secretary in this proceeding, a copy of which is attached, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure.

Dated at Chicago, Illinois, this 2nd day of July, 2002.

/s/ Christine F. Ericson

Christine F. Ericson
Deputy Solicitor General
Illinois Commerce Commission

**FERC SERVICE LIST NO. ER02-1688
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